IN THE

Supreme Court of the United States

OCTOBER TERM, 1965

No. 45

WILLIAM C. LINN,
Petitioner,
v.
UNITED PLANT GUARD WORKERS OF AMERICA, LOCAL 114, a Labor Association, LEO J. DOYLE, BENTON I. BILBREY and W. T. ENGLAND,
Jointly and Severally,
Respondents

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

BRIEF FOR RESPONDENTS UNITED PLANT GUARD WORKERS OF AMERICA, LOCAL 114, BENTON I. BILBREY AND W. T. ENGLAND

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QUESTION PRESENTED

Does a state or federal court have jurisdiction over the subject matter of a civil action for libel where such action is based upon activities which are arguably subject to Section 7 or Section 8 of the National Labor Relations Act, as amended?

STATEMENT

The statement of the case contained in Petitioner's brief is substantially correct, except for the omission of the following facts which these respondents deem material.

From about the first of November, 1962, to at least the date this suit was commenced, United Plant Guard Workers of America, Local 114, had been engaged in an organizational drive in the Detroit area among the employees of Pinkerton's National Detective Agency, Inc., petitioner's employer (R. 9, 4).

The alleged false and defamatory matter allegedly published on or about December 7, 1962, was set forth in Counts I and II of the complaint, as follows:

> "(7) Now we find out that Pinkerton's has had a large volume of work in Saginaw, they have had it for years.
>
> United Plant Guard Workers now has evidence,
>
> A. That Pinkerton has 10 jobs in Saginaw, Michigan.
>
> B. Employing 52 men.
>
> C. Some of these jobs are 10 years old!
>
> (8) Make you feel kind of sick and foolish.
>
> (9) The men in Saginaw were deprived of their *right* to VOTE in three N.L.R.B. elections. Their names were not summited (sic). These guards were voted into the Union in 1959! These Pinkerton guards were *robbed* of pay increases. The Pinkerton managers (sic) were LYING to us—all the time the contract was in effect.
>
> No doubt the Saginaw men will file criminal charges.
>
> Somebody may go to Jail!" (R. 4, 5, 6.)

In Count I, petitioner alleged that he "is and was one of the managers referred to by defendants" (R. 5). In Count II, petitioner alleged that he "is specifically named elsewhere in the publication as one of the managers referred to in the words and material quoted immediately above" (R. 6).

On June 5, 1963, the district court filed its Memorandum Opinion Granting Defendants' Motion to Dismiss in which the court stated that the rule of *San Diego Building Trades Council v. Garmon,* 359 U.S. 236 (1959), required dismissal of the action as to these respondents (R. 36, 37). On appeal, the Sixth Circuit affirmed on the same grounds (R. 40-46).

ARGUMENT

Summary of Argument

The alleged defamatory lenguage which is the subject matter of the present action is arguably protected under the National Labor Relations Act as amended (61 Stat 136, 73 Stat. 519, 29 U.S.C. 151, et seq.), hereinafter called the "Act", since the statements were made with respect to an "employer" as defined in the Act and were relevant to the objectives of an organizing campaign. The language may also be arguably prohibited by Section 8 of the Act.

Since *Hill v. Florida* 325 U.S. 538 (1945), it has been consistently held that states may not interfere with activities which are protected under the Act. *San Diego Building Trades Council v. Garmon,* 359 U.S. 236 (1959), and later cases extended this rule to activities which may be *arguably* protected or prohibited.

To make an exception to the rule prohibiting interference with rights which may be federally protected would be contrary to Congressional intent and endanger the very essence of the preemption doctrine. In fact, the creation of any additional exceptions to the *Garmon* rule would be a retreat from a workable formula to doubt and endless litigation proposing further exceptions.

Moreover, the facts of this case show no compelling need for an additional exception to *Garmon* since the defamation alleged is not serious and the National Labor Relations Board has already made an administrative determination with respect to the responsibility of these respondents for its publication.

I.

THE ACTIVITIES COMPLAINED OF IN THIS ACTION ARE ARGUABLY SUBJECT TO SECTION 7 OR SECTION 8 OF THE NATIONAL LABOR RELATIONS ACT.

For the first time in this case, petitioner has questioned whether the activity complained of in this action is subject to Sections 7 or 8 of the National Labor Relations Act. Petitioner asserts that malicious libel is not a protected concerted activity and that libel, containing no threats or promises, is not an unfair labor practice.

The question, however, is not whether an activity is subject to Section 7 or 8 of the National Labor Relations Act, but whether the activity is *"arguably* subject to Sec. 7 or Sec. 8 of the Act." *San Diego Building Trades Council v. Garmon, supra.* In the *Garmon* case, it was stated:

> "At times it has not been clear whether the particular activity regulated by the States was governed by §7 or §8 or was, perhaps, outside both these sections. But courts are not primary tri-

> bunals to adjudicate such issues. It is essential to the administration of the Act that these determinations be left in the first instance to the National Labor Relations Board." (p. 244)

Or, as was stated in *Local 100, United Association of Journeymen and Apprentices v. Borden*, 373 U.S. 690, (1963):

> "Thus the first inquiry, in any case in which a claim of federal preemption is raised, must be whether the conduct called into question may reasonably be asserted to be subject to Labor Board cognizance." (p. 694)

> "It is sufficient for present purposes to find, as we do, that it is reasonably 'arguable' that this matter comes within the Board's jurisdiction." (p. 696)

Respondents have heretofore taken no position as to whether the alleged defamatory statements were arguably protected or prohibited under the Act. The Board might find in such statements a threat of criminal prosecution and an unfair labor practice under Section 8(b)(1)(B). Respondents believe, however, that such statements are arguably subject to the protection of Section 7 of the Act.

Section 7 guarantees to employees the "right to self-organization, to form, join or assist labor organizations * * * and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection * * *" Freedom of speech is an essential and integral part of the rights guaranteed by Section 7. That the principles of free speech apply to the labor field was recognized by Congress when it enacted Section 8(c) of the Act and was long ago recognized by this Court in *Thomas v. Collins*, 323 U.S. 516 (1945).

This is not to say that all statements made by employees or their unions during organizing campaigns, collective

bargaining sessions or in the context of a labor dispute are protected. One example may be found in the case of *NLRB v. Blue Bell, Inc.* (5th Cir. 1955), 219 F.2d 796, where it was held that an employee who wrote a letter, circulated to other employees prior to a representation election, in which letter she repeatedly called a vice-president of the employer a liar, was not engaged in a protected activity.

On the other hand, in *Bettcher Mfg. Corp.*, 76 NLRB 526 (1948), where an employee, in effect, called the employer's president a "crook and a liar" and impliedly accused him of juggling company books during a bargaining session, the statement was held to be protected. And, in *Walls Manufacturing Company, Inc.*, 137 NLRB 1317 (1962), enforced, 321 F. 2d 753, certiorari denied, 375 U.S. 923, where an employee wrote a letter to the Texas health department complaining of alleged unsanitary conditions in the employees' restrooms, which letter was inaccurate in several respects, such activity was held protected since the letter was not deliberately or maliciously false.

Except in cases so extreme that it cannot be argued that the language in question is protected, the determination must necessarily be left to the National Labor Relations Board which applies standards which are greatly different than the common law rules of defamation. The truth is, of course, important, but it has been held that when leaflets disparaging an employer's product are distributed to the public during a strike, the activity is not protected under the Act, whether or not the leaflets are truthful. *Patterson-Sargent Co.*, 115 NLRB 1627 (1956).

The Board has also stated on many occasions that:

> "Employees do not forfeit the protection of the Act if, in voicing their dissatisfaction with matters

> of common concern, they give currency to inaccurate information, provided it is not deliberately or maliciously false."
>
> *Walls Manufacturing Co., Inc.*, 137 NLRB 1317, 1319 (1962).

Such a position is apparently derived from the opinion of this Court in *Milk Wagon Drivers Union v. Meadowmoor Dairies, Inc.*, 312 U.S. 287, 293 (1941), in which it was recognized that certain activities are motivated by "animal exuberance," rather than malice. And, the Board has applied the reasoning of this Court in *Cafeteria Employees Union v. Angelos*, 320 U.S. 293, 295, (1943) in which it was stated that words such as "unfair" and "fascist" were so much a part of economic controversies that to use them was "not to falsify facts" to hold the words "crook and liar" protected in certain circumstances. *Bettcher Manufacturing Corp., supra.*

In the present case, the statements were made during an organizing campaign having a representation election as its ultimate goal. The statements were clearly designed to gain support for the union and referred to the employers' manner of conducting labor relations. Petitioner is not specifically named in such statements which affect him solely in his capacity as a manager of the employer. And, as an admitted agent of the employer, he too is an "employer" as that term is defined in Section 2(2) of the Act.

If the statements are true, they are clearly protected. The complaint alleges no facts as to the circumstances of the publication which might fall within the unmalicious, misdirected enthusiasm category. Moreover, the Board might determine in view of all of the circumstances of the case that the language was no worse than the "crook and liar" language of the *Bettcher Mfg. Corp.* case, *supra.*

Whether or not the language complained of herein is "protected" or "prohibited" is for initial determination of the National Labor Relations Board. Certainly, the activity complained of is arguably protected by Section 7 of the Act.

II.

THE QUESTION PRESENTED IN THIS CASE IS CONTROLLED BY THE DOCTRINE OF PRE-EMPTION, AS STATED IN THE GARMON DECISION.

It is true that this Court has never ruled specifically on the precise question presented. However, the rule enunciated in *San Diego Building Trades Council v. Garmon, supra,* is sufficiently broad to cover the issue presented and the reasons for the preemption doctrine are equally valid with respect to the present case.

As was stated in *Garmon:*

> "When an activity is arguably subject to §7 or §8 of the Act, the State, as well as the federal courts must defer to the exclusive competence of the National Labor Relations Board if the danger of state interference with national policy is to be averted." (p. 245)

> "To leave the States free to regulate conduct so plainly within the central aim of federal regulation involves too great a danger of conflict between power asserted by Congress and requirements imposed by state law. Nor has it mattered whether the States have acted through laws of broad general application rather than laws specifically directed toward the governance of industrial relations. Regardless of the mode adopted, to allow the States to control conduct which is the subject of national regulation would create potential frustration of national purposes." (p. 244)

The danger of possible conflict is obvious and particularly great in a situation, such as this, in which the activity which is in question is arguably protected by Section 7 of the Act. The Labor Board might find alleged defamatory statements protected and order reinstatement of an employee who had been discharged because of such statements. A State court jury might render an award for substantial damages against the same employee for the same statements found to be defamatory. The possible conflicts and potential danger are outlined extensively in the Brief for the United States as *Amicus Curiae*, pp. 24-36.

Certainly State regulation of defamation, which may be protected activity under the National Labor Relations Act, is the regulation of labor relations and a restriction upon rights guaranteed by the Act.

It is also important to note that long prior to the *Garmon* decision, this Court had held that States could not interfere with the exercise of rights protected by the National Labor Relations Act. *Hill v. Florida, supra.* This decision has been consistently followed and no exceptions have been engrafted on this rule.

The axiomatic nature of the rule prohibiting interference with rights guaranteed by the Act is illustrated by the concurring opinion in *Garmon.* It was there stated:

> "The Court's opinion in this case cuts deeply into the ability of States to furnish an effective remedy under their own laws for the redress of past nonviolent tortious conduct which is not federally protected, but which may be deemed to be, or is, federally prohibited." (p. 253)

Nevertheless, four Justices concurred with the majority on the ground that it was "fairly debatable", or arguable, that the conduct involved was protected.

For the foregoing reasons, respondents submit that the question presented in this case is controlled by the decision in *Garmon,* which, in part, expanded the long standing rule prohibiting state interference with federally granted and protected rights.

III.

NO EXCEPTION SHOULD BE MADE TO THE RULE OF GARMON TO PERMIT THE MAINTENANCE OF THIS CIVIL ACTION FOR LIBEL.

The *Garmon* case was concerned primarily with State regulation of activities prohibited under the National Labor Relations Act. However, this Court, in promulgating its preemption rule, incorporated those earlier cases which prohibited state interference with protected rights. The few exceptions to the preemption doctrine recognized in *Garmon* related to State court jurisdiction over activities *prohibited* by the Act.

The creation of an exception to the rule prohibiting interference with rights arguably guaranteed and protected by the Act would undermine the entire doctrine of preemption, which is based on Congressional intent to occupy a field and close it to State regulations. This is not a case in which there is merely a possibility of conflicting remedies for a prohibited act. In this case there may exist a right guaranteed by Congress which petitioner seeks to destroy by the application of state law. As was said in *Automobile Workers v. O'Brien,* 339 U. S. 454, (1949):

> "Clearly, we reaffirm the principle that 'if Congress has protected the union conduct which the State has forbidden * * * the state legislation must yield'." (page 459)

The purpose of the *Garmon* rule was to avert the danger of state interference with national policy. As was stated in *Garmon,* at page 246:

> "The governing consideration is that to allow the States to control activities that are potentially subject to federal regulation involves too great a danger of conflict, with national labor policy."

No one has disputed the soundness of the general rule or the validity of its purpose. The *sole* exception was founded on the compelling state interest in preserving domestic peace where there was actual violence or a threat of violence. Further exceptions based upon a tendency to violence or the nature of the injury suffered would not only increase the danger of interference with national labor policy, but might make the rule of *Garmon* so difficult to apply that it would become meaningless.

We submit that *Garmon* applies and squarely resolves the issue. There should be no retreat from its workable formula in the preemption area.

From *Hill v. Florida, supra,* in 1945 to *Garmon,* in 1959, was a long and weary way. The question as to the extent of federal preemption in the field of labor-management relations, and particularly the extent to which the original jurisdiction of the National Labor Relations Board is exclusive, sorely perplexed bench and bar. This question was certainly the subject of innumerable arguments and briefs in lower courts, both state and federal, in cases which were never appealed and therefore never reported. The search for a workable formulation by which bench and bar could be guided with reasonable certainty appears to have ended with *Garmon.*

Now to weaken the authority of that case on the dubious proposition that a defamatory statement made by a union protagonist concerning an employer, published in the heat of an organizing campaign, where the alleged defamatory statement itself relates to the employer's alleged conduct

in the area of labor relations, will cause a festering malcontent which would undermine peaceful labor relations, would be a regrettable retreat from certainty to doubt. The flood gates would open again to endless litigation over the respective areas of state and federal jurisdiction.

It is true that there will be cases, such as this, in which the remedies of an individual may be curtailed. That this would happen was also recognized in *Garmon* when it was stated at pages 246, 247:

> "Our concern is with delimiting areas of conduct which must be free from state regulation if national policy is to be left unhampered. Such regulation can be as effectively exerted through an award of damages as through some form of preventative relief. The obligation to pay compensation can be, indeed is designed to be, a potent method of governing conduct and controlling policy. Even the States' salutary effort to redress private wrongs or grant compensation for past harm cannot be exerted to regulate activities that are potentially subject to the exclusive federal regulatory scheme."

Not only is the exception requested in this case dangerous to the doctrine of pre-emption, it is unnecessary. Despite assertions of petitioner to the contrary, the precise language in this case, claimed to be defamatory, does not shock one's conscience when considered in the context of a union's organizing campaign, nor are any damages alleged. The same may be said with respect to most of the cases involving suits for defamation arising out of labor disputes and listed in Appendix B of the Brief for the United States. It would seem that a state would have a more "compelling" interest in protecting the employee's right to earn wages than to protect his employer from a charge of "liar" made in the course of a heated organizing campaign. Cf. *Local 100, United Ass'n of Journeymen and Apprentices v. Borden*, 373 U.S. 690 (1963).

There are, of course, cases in which the alleged defamation may be more serious and actual damages sustained. In the Brief of the United States, a suggestion is made whereby such cases could be made the subject of a civil action. However, the tests suggested are unworkable, for the so-called federal standards would be interpreted by the courts of fifty states in cases which, unlike suits under Section 301 of the Act, are not subject to review by this Court. Mere allegations of malice and characterizing the defamation as grave would be sufficient for a state court to assume and retain jurisdiction through trial. Whether there was malice and grave defamation would be for the determination of individual juries. There would be as many standards of malice and gravity as there were cases. The proposed exception would destroy the rule.

In the Brief for the United States, at page 45, it is suggested that State defamation actions should be confined to "grave defamations", such as accusations of having committed a felony, of sexual misconduct or of belonging to the Communist party. This, too, is unworkable. In *Grand Central Aircraft Co.*, 103 NLRB 1114 (1953), enforced (9th Cir. 1954) 216 F.2d 572, it was held that an employer's published pre-election propaganda which portrayed the union as communistic was protected free speech. Consider the possible conflict were a State court permitted to issue an injunction or award damages based on the same statement. See also *Rish Equipment Co.*, 150 NLRB No. 116 (1965) in which calling the union a "bunch of gangsters" was held an inconsequential incident.

Respondents suggest that the "arguably subject" test of *Garmon* is itself an answer to some of the more serious cases of defamation which would be clearly irrelevant to any protected concerted activity. The "arguably subject" test is a "relevance" test. Thus, the extreme examples posed in the Brief of the United States, if properly mea-

sured by the "arguably subject" test might support State court actions. What true relevance does a charge of homosexuality against a rival union leader bear on the ability of a union to effectively represent the employees? (Brief of the United States, p. 38.) Or, what relevance to an organizing campaign is a defamatory statement made about the brother of the Company's president who has no connection with the Company? (Brief of the United States, p. 38.)

The instant case, however, illustrates the normal name calling situation and the validity of the *Garmon* rule. The alleged defamatory material affected petitioner solely in his capacity as a manager of Pinkerton's National Detective Agency, Inc. and it was directly related to the union's organizing efforts. The National Labor Relations Board has investigated the matter and made a determination that these respondents were not responsible for the defamatory material. This determination was made after careful investigation by an administrative agency "armed with its own procedures, and equipped with its specialized knowledge and cumulative experience" (*San Diego Building Trades Council v. Garmon*, 359 U.S. 236, 242 (1959)).

The problems between Pinkerton's and these respondents, arising out of the activities involved in this case have been resolved. If petitioner is permitted to maintain this action, the relations between his employer and these respondents would become more strained, thus hindering the national labor policy. If a jury were to find these respondents responsible for the defamatory material, the prestige and processes of the National Labor Relations Board would be seriously undermined.

Respondents submit that the pre-emption doctrine of *Garmon* should be applied to this case "if the danger of state interference with national policy is to be averted" and that there is no "compelling" reason to change this rule.

CONCLUSION

The judgment of the court of appeals should be affirmed.

Respectfully submitted,

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Dated: October 8, 1965.

Supreme Court of the United States

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No. [illegible]

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On Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit.

EMERGENCY MOTION FOR LEAVE TO APPEAR AMICI CURIAE, &c.

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ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT.

EMERGENCY MOTION FOR LEAVE TO APPEAR AMICI CURIAE, &c.

It has just been learned that, for financial reasons, no reply brief is being filed in this *Linn* case, and that the *Meyer* cases, Nos. 89 and 94, have been settled and are being dismissed under Rule 60. Further, the Supreme Court of Ohio is refusing to hear argument in *Schnell Tool et al.* v. *United Steelworkers et al.* until this Court decides this *Linn* case—despite the fact that the Court of Appeals' decision in *Linn* that defamation cases such as this fall within the ambit of *Garmon* rests, in the last analysis, on the *sole* authority of the Ohio *trial* court's opinions in *Schnell Tool,* 200 N. E. 2d 727 and 734.

Accordingly, Schnell Tool & Die Corporation and Salem Stamping & Manufacturing Company, being the plaintiffs-appellants in *Schnell Tool* (Case No. 39,319 in the Supreme Court of Ohio), who hereafter refer to them-

selves as "we", "us" and "our" for the sake of brevity, hereby respectfully and urgently move:

1. For leave to appear *amici curiae* in this *Linn* case and for leave to use as our *amici curiae* brief (a) these Motions and the reasons supporting them and (b) the respondents' "Motions, Request and Suggestions" in *Meyer*, October Term, 1965, Nos. 89 and 94, and the Appendix thereto annexed[1] (being our brief on the merits in *Schnell Tool* in the Supreme Court of Ohio), and

2. For leave to have one of our counsel, each of whom has argued orally here and each of whom is thoroughly steeped in the statutes pertinent here and their relevant legislative history, participate in oral argument—with sufficient time to do so meaningfully.

REASONS FOR MOTIONS

A. The questions in *Linn* are *not* adequately stated in *any* of the briefs in it—and the questions in *Linn* are almost *identical* with the questions in *Schnell Tool*.[1a] (Repeated meticulous searches of § 9(c) including § 9(c)(1) of the revised or "new"[2] National Labor Relations Act contained in § 101 of LMRA, 1947, 61 Stat. 136, 144, convince us there is nothing in § 9(c) that is pertinent here, and therefore nothing in it that introduces into *Linn* any question not also present in *Schnell Tool*. See page 18, note 17, and pp. 21-2 of Appendix to *Meyer* "Motions, Request and Suggestions.")

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[1] The "Motions" etc. in *Meyer* have long since, on September 30, 1965, been served on *all* parties to this *Linn* case, as well as on the Solicitor General and on the NLRB.

[1a] For the questions actually present, see pp. 5 *et seq.* of Appendix to "Motions, Request and Suggestions" in *Meyer*.

[2] Senator Taft's characterization. See Appendix to Motions, Request and Suggestions in *Meyer*, p. 81.

B. What this means is that, *unless* we are allowed to appear *amici curiae* here, the questions that in truth exist both in this *Linn* case and in our *Schnell Tool* case might be effectively resolved *against* us when many of these questions have never been brought to this Court's attention, and when this Court has never had the benefit of an informed argument of them.

C. It is hard to exaggerate the importance of the questions that in truth exist in both *Linn* and *Schnell Tool*. If this Court finds it necessary, or desires, to reach *all* the questions that exist in said cases, then the whole matter of preemption or destruction of State remedies by the revised National Labor Relations Act is at stake, as well as grave constitutional questions that arise *unless* effect is given to the *expressed* intent of Congress—as it has *not* been in either *Linn* or *Schnell Tool* by the courts below.

Importance of Congressional Intent

D. As this Court has repeatedly *held*, in cases which, like this one, deal entirely with federal statutes, what one is exclusively concerned with is the *intent of Congress* as this intent emerges (1) from what the statutes say on their *face* and (2) from their *legislative history*. Indeed, in a case dealing with the very revised National Labor Relations Act with which we are here concerned, this Court has distilled its holding on this entire subject into this terse sentence: "The *purpose of Congress* is the *ultimate touchstone*." [3]

Yet, the brief of the respondents in *Linn* and the brief of the Solicitor General's office and the NLRB quote only isolated snatches from one or two of the pertinent statutes

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[3] *Retail Clerks International Ass'n* v. *Schermerhorn* (1963), 375 U. S. 96, 103. (Emphasis supplied.)

and not one scintilla of the legislative history of any of them—which is perhaps understandable, since the pertinent statutes read in the light of their relevant legislative history are fatal to the arguments or "adumbrations" advanced in each brief.

Instead, said briefs argue *policy*. And the policy they argue is in *no* instance—except by occasional unwitting accident—the policy of *Congress*. The quite different policies each brief presses on this Court as desirable and asks this Court to promulgate as *law* are things spun by their respective authors *without reference* to the policy *clearly* expressed by *Congress* in said statutes and legislative history. In short, said briefs are beside the point.

We, to the contrary, in the Appendix of the respondents' "Motions, Request and Suggestions" in *Meyer*, quote the most pertinent statutory provisions *in full* and likewise quote their *relevant* legislative history. In short, we have assembled for the Court, in convenient form, the necessary tools for decision.

The Policy of Congress

The five page limitation imposed by Rule 42(3) allows only this *partial* summary of the policy of Congress:

1. As appears from § 1 of LMRA, 1947, perhaps the prime policy, purpose and intent of Congress in enacting it, including the revised National Labor Relations Act contained in its § 101, was to require "employers, employees, and labor organizations each [to] recognize *under law* one another's *legitimate rights* in their relations with each other". See pp. 41-2 of said Appendix. This is hardly consistent with any view that the revised Act licenses libel and slander.

2. When what is said on the *face* of § 7 is read in the light of its *legislative history*, it instantly becomes appar-

ent that § 7 *never* protects *unlawful* conduct, whether "concerted" or otherwise. See said Appendix, pp. 76-84. Thus, § 7 *never* protects libel or slander.

3. The only jurisdiction granted the NLRB by Congress which is pertinent here is its jurisdiction to prevent the "unfair labor practices" listed in § 8. See said Appendix, pp. 85-93. And § 8(c) expressly provides that *no* expression of "views" that contains no "promise of benefit" or "threat of reprisal or force", which the libels in this case did *not*, shall be an "unfair labor practice." *Ibid*, pp. 93-104. Thus, the revised Act expressly *strips* the NLRB of *all* jurisdiction over such libels and slanders as we have *here*. And this was deliberate, *ibid*.

CONCLUSION

For the several reasons stated, we respectfully ask that our motions be granted.

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